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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,216	06/19/2003	Tessema Dosho Shifferaw	A-72219 / ESW	5834

7590
Edward S Wright
1100 Alma Street
Suite 207
Menlo Park, CA 94025

01/13/2005

EXAMINER

HWANG, VICTOR KENNY

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/600,216

Applicant(s)

SHIFFERAW, TESSEMA DOSHO

Examiner

Victor K. Hwang

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-15, 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-11 and 16 is/are rejected.
- 7) ☒ Claim(s) 4-7 and 16-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20050107.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "73" referred to on page 7, line 6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: on page 7, line 6, "9" presumably should be changed to --8--.

Appropriate correction is required.

Claim Objections

3. Claims 7, 16 and 18 are objected to because of the following informalities:

in claim 7, line 1, "7" presumably should be changed to --6-- so that the claim does not depend from itself;

in claim 16, line 6, "operably" presumably should be changed to --operable--;

in claim 18, line 1, "13" presumably should be changed to --16-- to provide proper antecedent basis for limitations found therein; and

in claim 18, line 4, before "supports" the phrase --the foot-- presumably should be inserted to distinguish the supports from the support recited in claim 16.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by *Yukon TK-400* (Caribou II Gym, Yukon Fitness Equipment 1994-95 Catalog). *Yukon TK-400* discloses a weightlifting system comprising a horizontally extending bar, a plurality of weight plates moveably mounted on the bar, means supporting the bar at a predetermined rest height (the Smith mechanism or the safety rail spotter arms), a bench having a support (the back) mounted on a frame for movement between a horizontal position near the bar and a downwardly inclined position away from the bar (the decline position), and means operable by a person on the bench for moving the support from the horizontal position to the downwardly inclined position (the backrest adjustment mechanism).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over *McIntosh* (US Pat. 4,205,838) in view of *Tracy* (US Pat. 4,971,318). *McIntosh* discloses a weightlifting system comprising a pair of laterally spaced weight stands 17, an elongated bar *BB* extending between the weight stands, and a plurality of weight plates *P* disposed side-by-side in an upright position on each of the weight stands, with end portions of the bar passing through openings in the plates. A bench *B* is positioned beneath the bar for receiving a person using the system.

McIntosh does not disclose the weight plates being formed in sections which are hinged together and adapted to be selectively attached to the bar by movement between open and closed positions (claim 1).

Tracy discloses weight plates 12 for barbells 10, the weight plates being formed in sections 16,18 which are hinged 32 together and adapted to be selectively attached to the bar by movement between open (Fig. 2) and closed positions. The hinged weight plates permit the mounting and removal of weight to a barbell without removing the locking collar 14 (col. 1, lines 46-48).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the weightlifting system of *McIntosh* with the hinged weight plates of *Tracy*, in order to permit the mounting and removal of weight plates to the bar without removing the locking collar.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over *McIntosh* (US Pat. 4,205,838) as modified by *Tracy* (US Pat. 4,971,318) as applied to claim 2 above, and further in view of *Ish, III* (US Pat. 5,462,510). *McIntosh* as modified by *Tracy* discloses the invention as claimed except for the bench movable between raised and lowered positions (claim 3).

Ish, III discloses an exercise bench for use with exercise machines and comprises a bench 70 movable between raised and lowered positions. The lowered position *G* of the bench permits the performance of decline exercises by a user.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the weightlifting system of *McIntosh* as modified by *Tracy* with the bench of *Ish, III*, in order to permit a user to perform decline weightlifting exercises.

9. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over *McIntosh* (US Pat. 4,205,838) in view of *Ish, III* (US Pat. 5,462,510). *McIntosh* and *Ish, III* have been discussed above, and such discussion is incorporated herein. *McIntosh* discloses the invention as claimed except for means for moving the bench between raised and lowered

positions relative to the bar (claim 8); and the bench being pivotally mounted for movement between a horizontal position and a downwardly inclined position (claim 9).

Ish, III discloses an exercise bench for use with exercise machines, the bench being pivotally mounted for movement between a horizontal position *A* and a downwardly inclined position *G*, in order to permit a user to perform a variety of exercises targeting different areas of the chest muscles.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the weightlifting system of *McIntosh* with the exercise bench of *Ish, III*, in order to permit a user to perform a variety of exercises targeting different areas of the chest muscles.

10. Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over *McIntosh* (US Pat. 4,205,838) in view of *Oswald et al.* (US Pat. 5,060,939). *McIntosh* has been discussed above, and such discussion is incorporated herein. *McIntosh* discloses the invention as claimed except for means for moving the bench between raised and lowered positions relative to the bar (claim 8); and the means for moving the bench including a lifting arm which engages the underside of the bench in cam-like fashion and is affixed to a shaft for rotation between upright and retracted positions, and a handle operable by a person on the bench for turning the shaft to move the arm between the upright and retracted positions (claim 10).

Oswald et al. discloses a multi-position exercise bench for use with exercise machines, the bench includes a lifting arm 204 which engages the under side of the bench 300,400 in

cam-like fashion and is affixed to a shaft 212 for rotation between upright and retracted positions (Fig. 3), and a handle 216 operable by a person on the bench for turning the shaft to move the arm between the upright and retracted positions. The multi-position bench permits performance of multiple exercises.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the weightlifting system of *McIntosh* with the multi-position exercise bench of *Oswald et al.*, in order to permit a user to perform a variety of exercises targeting different areas of a user's body.

11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over *McIntosh* (US Pat. 4,205,838) as modified by *Oswald et al.* (US Pat. 5,060,939) as applied to claim 8 above, and further in view of *Blomqvist* (US Pat. 4,502,681) and *Tracy* (US Pat. 4,971,318).

McIntosh as modified by *Oswald et al.* discloses the invention as claimed except for a pair of individually operable leg extension bars at one end of the bench, and a plurality of weight plates formed in sections that are hinged together for selective attachment to the leg extension bars. *Oswald et al.* discloses a leglift device 10 may be attached to one end of the bench for performing leg exercises.

Blomqvist discloses a leglift device 3 mounted to an end of a bench, the leglift device comprising a pair of individually operable leg extension bars 8 or 4 at one end of the bench, and a plurality of weight plates 5 selectively attached to the leg extension bars. The leglift devices permit exercising of the leg muscles of each leg independently.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the leglift device of *McIntosh* as modified by *Oswald et al.* with the pair of individually operable leg extension bars of *Blomqvist*, in order to permit exercising of a user's legs independently of one another.

Tracy discloses weight plates 12 being formed in sections 16, 18 which are hinged 32 together and adapted to be selectively attached to a bar by movement between open (Fig. 2) and closed positions. The hinged weight plates permit the mounting and removal of weight to a bar without removing the locking collar 14 (col. 1, lines 46-48).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the weightlifting system of *McIntosh* as modified by *Oswald et al.* and *Blomqvist* with the hinged weight plates of *Tracy*, in order to permit the mounting and removal of weight plates to a bar without removing the locking collar.

Allowable Subject Matter

12. Claims 12-15, 19 and 20 are allowed.

13. Claims 4-7, 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Additionally, claims 7 and 18 are objected to because of informalities.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Metzger (US Pat. 560,517), *Hettick, Jr.* (US Pat. 4,529,198), *Mahnke* (US Pat. 4,566,691), *Osborne et al.* (US Pat. 4,575,077), *Selle* (US Pat. 4,799,673), *Shields* (US Pat. 4,822,034), *Stonecipher* (US Pat. 5,116,297), *Lennox et al.* (US Pat. 5,141,480), *Beyer* (US Pat. 5,429,570), *Slattery* (US Pat. 6,565,495 B2), *Shifferaw* (US Pat. 6,682,464 B2) and *Knapp* (US Pat. 6,685,601 B1) discloses exercise apparatus having various features similar to the claimed invention.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.


The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence at this time is (703) 872-9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Victor K. Hwang
January 9, 2005



Danton D. DeMille
Primary Examiner